

**Remarks**

This Amendment is in response to the Office Action dated **September 6, 2006**.

The Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application No. 2002/0143860 to Catan (hereinafter “Catan”), in view U.S. Patent No. 6,814,293 to Curry (hereinafter “Curry”), and further in view of “Applicant Admitted Prior Art” (hereinafter “AAPA”). Applicant does not understand what reference the Office is citing to when it refers to the AAPA by paragraph number. Applicant requests clarification in a non-final office action.

The Office rejected claims 6 and 9, alleging the same as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Catan in view of Curry and further in view of AAPA and further in view of U.S. Patent No. 5,493,304 to Lee (hereinafter “Lee”).

In an alternate rejection, the Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over Catan in view of Curry and further in view of U.S. Patent No. 6,778,917 to Jansen (hereinafter “Jansen”).

In an alternate rejection, the Office rejected claims 6 and 9, alleging the same as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Catan in view of Curry and further in view of Jansen, and further in view of Lee.

The following comments are presented in the same order and with headings and paragraph numbers corresponding to the rejections set forth in the Office Action.

**Claim Rejections – 35 U.S.C. § 103**

6. The Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Application No. 2002/0143860 to Catan (hereinafter “Catan”), in view U.S. Patent No. 6,814,293 to Curry (hereinafter “Curry”), and further in view of “Applicant Admitted Prior Art” (hereinafter “AAPA”). Applicant respectfully disagrees.

Claim 1 of the instant application is directed to:

A method for handling data of a proportioning device comprising the steps of:  
providing the proportioning device, in a production process, with at least one transponder-for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device, the proportioning

device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers,  
storing production-related data about the proportioning device, in the production process, into the transponder using the writing device,  
during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device,  
during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device.

The Office cites Catan paragraph [0064], lines 1 – 5 to support the disclosure of a production process, as presented below:

Referring to FIGS. 1 and 6A, a process that may be implemented based on the hardware environment of FIG. 1 allows a user to receive targeted promotional information through a fixed terminal 120 or portable reader 100 while shopping, for example.

Applicant submits that this citation to Catan, other than containing the search term “process”, has no relevance to instant claim 1. The Catan citation is directed to promotional informational while a user is shopping, **not** a production process. A production process requires that something be manufactured, which is why storing data such as an article number, serial number, production order number, and batch number is desirable. (Instant application, page 3, lines 24 – 26). There is no teaching, suggestion, or motivation provided in Catan to provide a proportioning device, in a production process, with at least one transponder, as in instant claim 1. Catan does not render claim 1 obvious.

The Office next cites Catan paragraph [0063], lines 1 – 7 to support the disclosure of storing production-related data for a production process, as presented below:

Referring now to FIGS. 3 and 4, a MRL device T may be affixed to a variety of articles other than purchased or purchasable goods. For example, the MRL device T may be affixed to one side of a ticket 205 such as a train, movie, show, airline, or other kind of ticket. Alternatively, the ticket may be a coupon, a receipt, or any other type of article associated with a service or product.

Again, Applicant submits that this citation to Catan has no relationship with either a production process or production-related data. There is no reference to any production-related data in the cited paragraph. Affixing an MRL device to a train, movie, show, airline, or any other kind of

ticket does not provide any teaching, suggestion, or motivation to provide “storing production-related data about the proportioning device, in the production process, into the transponder using the writing device”, as recited in instant claim 1. Catan does not render claim 1 obvious.

The Office next admits that Catan is silent with respect to storing application-related data about the proportioning device in the transponder, but cites Curry for this disclosure, alleging it would be obvious to combine the two references. The Office cites Curry, column 17, lines 2 – 7, as presented below:

Although the present invention has been described with respect to reading bar codes including stacked, or two dimensional bar codes such as Code 49, PDF 417 and similar symbologies, it is conceivable that the method of the present invention may also find applications for use with various machine vision or optical character recognition applications in which information is derived from other types of indicia such as characters or from the surface characteristics of the article being scanned.

Applicant submits that this citation to Curry has nothing to do with storing application-related data about the proportioning device in the transponder. This citation only refers to reading data, whether it is from two dimensional barcodes, or through machine vision or optical character recognition applications. There is no reference to storing data, let alone storing application-related data, as required by instant claim 1. Therefore, Curry does not provide any teaching, suggestion, or motivation to provide “during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device,” as recited in instant claim 1. Curry, combined with Catan, does not render claim 1 obvious.

Next, the Office cites three sections of Curry to show disclosure of “during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device.” First, Curry column 20, lines 36 – 39, presented below, is alleged to support disclosure in Curry for “during use of the proportioning device or repair of the proportioning device”:

The pool of uncommitted scanners has a number of further advantages, including lower maintenance overheads, and the possibility for each user to select a scanner of his or her choice. That may be advantageous if for example some users find it easier to operate one particular model of scanner, and others find it easier to use a different model.

Applicant submits that, other than containing the search term “maintenance”, this citation bears no relevance to instant claim 1. It discloses that pooling uncommitted scanners has the advantage of lower maintenance overheads. Pooling uncommitted scanners bears no relevance to instant claim 1.

Second, Curry column 7, lines 15 – 23, presented below, is alleged to support disclosure of “fully or partially reading out the stored production related data and the application related data using the reading device”:

FIG. 1A shows a portable system in accordance with a first embodiment of the present invention. An optical scan module or main peripheral 1 is detachably mounted on a single finger of a user 3 using a ring-shaped mounting. The detachable mounting may be of any number of conventional types suitably adapted for its ease of use for the desired application. For example, a ball and flexible socket mounting, or a slide mounting could be used. Other mountings with movable restraining members might also be used.

Applicant submits that, other than containing the search term “scan”, this citation bears no relevance to instant claim 1. It discloses that an optical scan module can be mounted. Mounting an optical scan module bears no relevance to instant claim 1.

And third, Curry column 13, lines 60 – 65 is presented below:

It is known in the art to generate onboard the reader itself a beep signifying that a symbol has been successfully read, or that an error occurred during reading. When a reader is operated in a noisy environment, it is known to generate a beep in excess of 85 dB which simply increases the overall noise level.

Applicant submits that, other than containing the search term “reader”, this citation bears no relevance to instant claim 1. It discloses that readers are known to generate audible signals after a successful read. Audible signals from readers bear no relevance to instant claim 1.

Taken together, these citations do not render obvious the requirement of claim 1 that “during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device.”

The Office next alleges that Applicant’s Admitted Prior Art (“AAPA”) discloses “the proportioning device being of a portable or stationary design and selected from the group

consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers.” Regardless of what AAPA discloses, it’s addition to the alleged combination of Catan and Curry does nothing to address the failure of Catan and Curry, alone and in combination, to teach or suggest necessary elements of claim 1, as argued above. As such, the proposed combination of Catan, Curry, and AAPA does not produce the embodiment of claim 1. Applicant requests that the rejection be withdrawn and that claim 1 be allowed.

The Office rejected claims 2 – 5, 7 – 8, 10 – 13, and 15 – 20 as being unpatentable in view of Catan, Curry, and AAPA. Claims 2 – 5, 7 – 8, 10 – 13 depend from independent claim 1. For at least the reasons presented above, claims 2 – 5, 7 – 8, 10 – 13 are nonobvious. As such, Applicant requests that the rejections to claims 2 – 5, 7 – 8, 10 – 13 be withdrawn.

The Office rejected claim 15, alleging that Catan, Curry, and AAPA disclose all the features of claim 15. As stated above in the Remarks section, Applicant does not understand to which reference the Office is citing when it cites to a paragraph number of “AAPA”. Applicant requests clarification in a non-final office action. Regardless, for at least the reasons presented above, Catan and Curry fail to disclose or render obvious the invention as claimed. The addition of AAPA does nothing to address the failure of Catan and Curry, alone and in combination, to produce the invention as claimed. As such, Applicant submits that the combination of Catan, Curry, and AAPA does not render obvious claim 15 and requests that the rejection be withdrawn and claim 15 be allowed.

Claims 16 – 20 depend from independent claim 15. As argued above, claim 15 is not rendered obvious by Catan, Curry, and AAPA. For at least the reasons presented above, claims 16 – 20 are nonobvious. Applicant requests that the rejections to claims 16 – 20 be withdrawn and claim 16 – 20 be allowed.

7. The Office rejected claims 6 and 9, alleging the same as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Catan in view of Curry and further in view of AAPA and further in view of Lee. Applicant respectfully disagrees.

Claims 6 and 9 depend from independent claim 1. As argued above, Catan,

Curry, and AAPA do not teach or suggest all the elements of claim 1. Regardless of whether or not it would have been obvious to combine Catan, Curry, and AAPA with Lee in the manner alleged by the Office, the combination would still not produce the embodiments of claims 6 and 9 because the combination would not have the limitations recited in independent claim 1.

Furthermore, the teachings of Lee are not relevant to this application. The Office asserts that Lee provides support for “data of an initial calibration is stored into the transponder as production-related specific data”, citing Lee, column 6, lines 10 – 15, as presented below:

Besides bandwidth and range resolution tests, the wide band technique can also be applied to calibrate the time shifters of the beamforming network. This is demonstrated by the simple example shown in FIG. 4. Here, a 1:4 power divider 200 distributes an input pulse signal into four cables 202A-D of different lengths.

Applicant submits that, other than containing the search term “calibrate”, this citation bears no relevance to instant claim 6. It discloses that the wide band technique of Lee can calibrate time shifters. Wide band techniques and calibrated time shifters bear no relevance to instant claim 6. Lee is directed to a complicated calibration system for a wide band array and has nothing to do with storing calibration data. There is no teaching or suggestion in the citation provided by the Office for storing calibration data.

Additionally, Lee could not be physically combined with Catan and Curry. Column 2, lines 58 – 62 disclose “An exemplary 2-D photonic array to which this invention is applied is shown in simplified schematic form in FIGS. 1A and 1B, and includes 4 X 24 wideband radiating elements 52 distributed over a 3 feet by 9 feet conformal aperture, which follows the contour of a jumbo jet fuselage. [Emphasis added] Obviously, because Lee is directed to a radar array antenna and is distributed over a 3 foot by 9 foot area, it could not physically be combined with Catan and Curry. As such, claim 6 is not rendered obvious by the combination of Catan, Curry, AAPA, and Lee.

Claim 9 depends from claim 1. For at least the reasons presented above, claim 9 is also nonobvious. Applicant requests removal of the rejections to claims 6 and 9.

## **Alternate Rejections**

9. In an alternate rejection, the Office rejected claims 1 – 5, 7 – 8, 10 – 13, and 15 – 20, alleging the same as being unpatentable under 35 U.S.C. § 103(a) over Catan in view of Curry and further in view of Jansen. Applicant respectfully disagrees.

The Office admits that Catan and Curry are silent with respect to the proportioning device “being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers,” as recited in instant claim 1. The Office cites Jansen to support this disclosure.

Regardless of what Jansen discloses, it does nothing to address the failure of Catan and Curry, alone and in combination, to disclose the remaining elements of instant claim 1, as argued in detail above. As such, the combination of Catan, Curry, and Jansen does not render claim 1 obvious.

The Office rejected claims 2 – 5, 7 – 8, 10 – 13, and 15 – 20 as being unpatentable in view of Catan, Curry, and Jansen. Claims 2 – 5, 7 – 8, 10 – 13 depend from independent claim 1. For at least the reasons presented above, claims 2 – 5, 7 – 8, 10 – 13 are nonobvious. As such, Applicant requests that the rejections to claims 2 – 5, 7 – 8, 10 – 13 be withdrawn.

10. In an alternate rejection, the Office rejected claims 6 and 9, alleging the same as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Catan in view of Curry and further in view of Jansen, and further in view of Lee.

Claims 6 and 9 depend from independent claim 1. As argued above, Catan and Curry do not teach or suggest all the elements of claim 1. Regardless of whether or not it would have been obvious to combine Catan, Curry, Jansen, and Lee in the manner alleged by the Office, the combination would still not produce the embodiments of claims 6 and 9 because the combination would not have the limitations recited in independent claim 1.

Furthermore, as argued above, Lee could not be physically combined with Curry, Catan, and Jansen because of its size. As such, the combination of Catan, Curry, Jansen, and Lee does not render claims 6 and 9 obvious. Applicant requests that the rejections to claims 6 and 9

be withdrawn.

**Conclusion**

In light of the arguments presented above, Applicant asserts that the application is in condition for allowance. Favorable consideration and prompt action to that effect are earnestly requested.

Applicant has added new claim 21 and believes that no additional payment is required because original claim 14 was previously canceled. However, in the event that the payment of additional government fees is required and payment is not enclosed, please charge Deposit Account No. 22-0350.

Should the Examiner believe that anything further is required to place the application in better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative at the number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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By: / James L. Shands /  
James L. Shands  
Registration No.: 54,439

6109 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343-9185  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001

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